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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,295	08/03/2000	Jay S. Walker	96-200-C1	1956
22927	7590	03/09/2007		
WALKER DIGITAL 2 HIGH RIDGE PARK STAMFORD, CT 06905			EXAMINER WEISBERGER, RICHARD C	
			ART UNIT	PAPER NUMBER
			3693	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/09/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/632,295

Applicant(s)

WALKER ET AL.

Examiner

Richard C Weisberger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 60 and 73-121 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 60, 73-81, 88, 90, 96-103, 105, 111 and 115-121 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 82-87, 89, 91-95, 104, 106-110 and 112-114 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 60 and 73,74,75,76,77,79,80,81,,88,90, 96-103,105,115-117, and 119 are rejected under 35 U.S.C. 102(b) as being anticipated by Spivak, “Instant Money”.

The reference teaches that it is well known to send unsolicited credit cards in the mail. In addition the reference teaches that it is well known for retailers to offer and issue revolving lines of credit while the customer is at the store. ¶ 11 - ¶ 13. Taken in its entirety, this reference teaches that it was well know for retailers to offer revolving lines of credit to their customers, to offer the cards unsolicited, to offer credit cards unsolicited in the mail, to offer credit cards to the customer while the customer is at the store, to activate the credit card while the customer is at the store and/or to offer customers the option of using the revolving line or credit for the purchase. See, ¶ 11 and ¶ 12 .

Inherent in this teaching (¶ 11, an investigation) is the credit card issuer obtaining an indication from a credit card provider (which may be the same entity, which may be the sponsoring organization, which provides a service) that a line of credit has been established.

As for the claimed “activation step”, the examiner interprets the activation step to read on the first purchase using the card. The transmission of the purchase information is inherent to this process.

The applicant also argues that the reference fails to suggest that the preapproved credit card was issued for a customer who is expected to arrive at the store. This argument is not

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persuasive since the reference teaches that prior to offering the line of credit, an “investigation” is carried out. ¶ 11. Thus, this “expectation” step is inherently . Why would a retail store send a customer a credit card if the issuer had had no expectation that the card would be used?

3. Claim 60 rejected under 35 U.S.C. 102(a) as being anticipated by Private Onecl, Sample Business Contracts.

4. Business contracts, such as the one cited, are generally not archived, and the examiner has had difficulty finding a similar contract with an adequate priority date. While the examiner, maintains that the subject matter within the contract cited is common knowledge within the private label credit card industry, the rejection has been withdrawn.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 118,120, 121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spivak.

The reference fails to teach the offering location to be a hotel. It would have been obvious for a hotel, a class of merchants, a furniture repair shop, a class of merchants where goods are dropped off and picked up, and a consultant, a class of merchants where a customer schedules a service, all to participate in the teaching of Spivak as motivated well known theories of supplying credit.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C Weisberger whose telephone number is 571 272 6753. The examiner can normally be reached during the hours of Maxiflex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vince Milling can be reached on 571 272 6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard C Weisberger
Primary Examiner
Art Unit 3624

